

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21109

Application 30974 of      Patrick Thompson  
                                 P.O. Box 3787  
                                 Clearlake, CA 95422

filed on **October 14, 1999**, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source

Unnamed Stream

Tributary to

Robinson Creek thence

Scotts Creek thence

Rodman Slough thence

Clear Lake thence

Cache Creek thence

Yolo Bypass thence

Sacramento River

within the County of **Lake**

2. Location of point of diversion

By California Coordinate System in Zone: 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
North 538,500 feet and East 1,735,600 feet	NE ¼ of NE ¼	23	15N	10W	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
<b>Stockwatering</b>	<b>NE ¼ of NE¼</b>	<b>23</b>	<b>15N</b>	<b>10W</b>	<b>MD</b>	
<b>Recreation</b>						
	<b>SE ¼ of SE¼</b>	<b>14</b>	<b>15N</b>	<b>10W</b>	<b>MD</b>	

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 14 acre-feet per annum to be collected from November 1 of each year to March 15 of the succeeding year.  
(0000005C)
6. The capacity of the reservoir covered by this permit (Application 30974) shall not exceed 14 acre-feet.  
(0000005n)
7. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2010.  
(0000009)
8. After the initial filling of the storage reservoirs, permittee's right under this permit extends only to water necessary to keep the reservoirs full by replacing water beneficially used and water lost by evaporation and seepage and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season.  
(0000041)
9. The applicant shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel. Within 90 days of the date of this permit, the Permittee shall furnish evidence that substantiates that the outlet pipe has been installed in the dam and releases water into the natural stream channel. Evidence shall include photographs showing completed works.  
(0050043bM)
10. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento River Basin are such that, in any year of water scarcity, the season of diversion authorized herein

may be reduced or completely eliminated by order of the SWRCB, after notice to interested parties and opportunity for hearing.

(0000090)

11. Permittee shall comply with the following provisions, which are derived from the contract between Patrick W. Thompson and Yolo County Flood Control and Water Conservation District (District) executed on May 2, 2000 and filed with the State Water Resources Control Board:

- (1) If during the period from November 1 of any year through April 30 of the succeeding year, either (a) the elevation of Clear Lake has reached 7.56 feet as measured on the Rumsey Gage or (b) water has been discharged from Clear Lake to hold the water level down in compliance with the Gopcevic Decree, water collected to storage during permittee's corresponding diversion season shall be water appropriated under this permit. If during such period from November 1 through April 30, either (a) or (b) above does not occur, water collected in permittee's reservoir shall be purchased from the District.
- (2) Permittee shall install and maintain in the reservoir an accurate direct reading staff gage, calibrated to storage in acre-feet, which is referenced to a permanent benchmark. Permittee shall supply the staff gage reading to the District as required by the contract executed on May 2, 2000 and to the State Water Resources Control Board with permittee's report of annual water use.
- (3) Permittee shall allow a designated representative of the District reasonable access to the reservoir for the purpose of determining water levels.

Inclusion in this permit of certain provisions of the referenced contract shall not be construed as disapproval of other provisions of the contract or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

(000000D1)

12. For the protection of Clear Lake hitch and other fish, wildlife and public trust resources downstream of the reservoir, the Permittee shall allow all natural stream flow into the reservoir to pass over the dam during the period of March 15<sup>th</sup> to June 1<sup>st</sup>. To accomplish this the Permittee shall:

- (a) Maintain the reservoir at full capacity during the above-specified time, so that the bypass of stream flow is guaranteed after the season of diversion and during the period critical to the Clear Lake Hitch and

- (b) Keep the fish screens at the top of the dam spillway clean and free of debris at all times to allow proper passage of required bypass flows into the spillway.

This provision does not require the passage or release of water at a rate greater than the unimpaired natural inflow into the reservoir.

(0000200M)

- 13. Permittee shall submit a yearly report certifying that the reservoir was maintained at full capacity from March 15<sup>th</sup> to June 1<sup>st</sup>. If in this time period the water level of the reservoir falls below the spillway, the Permittee shall submit a statement describing what measures were taken to restore the reservoir to full capacity. A copy of this statement shall be submitted annually to the SWRCB with the Annual Progress Report by Permittee, as well as a copy of the annual reservoir volume report submitted to the YCFCWCD.

(0000200M)

- 14. Within 90 days of the date of this permit, Permittee shall submit a report to the Chief, Division of Water Rights, demonstrating that compliance has been obtained with the Thompson Project Riparian Habitat Development Plan / Water Storage Reservoir (RHDP). Full compliance must be obtained with the sections designated as Initial Habitat Creation above the Waterline and Initial Habitat Creation below the Waterline. The report shall include:

- (a) Maps that detail the location of each native tree and shrub species planted.
- (b) Current photographs of planted seedlings and shrubs.
- (c) The number of each native tree and shrub species planted.
- (d) The number of each fish species placed in the reservoir.
- (e) Efforts shall be made to include Lake County native pond turtles as part of the habitat creation plan.

(0000207M)

- 15. Within 90 days of the date of this permit, Permittee shall prepare and submit for approval to the Chief, Division of Water Rights, an oak tree replacement and mitigation plan. The plan shall include:

- (a) A topographic map of the property detailing where the trees will be planted.
- (b) A provision that guarantees oak tree replacement shall be approximately fifty percent blue oaks (*Quercus douglasii*) and the remainder valley oaks (*Quercus lobata*).
- (c) A provision that guarantees that the oak trees removed due to the construction of the project will be replaced at a ratio of 1:1. One oak tree shall be planted for every one oak tree removed. This applies to the nine trees that were removed for

the construction of the reservoir, it does not include those trees left standing as habitat in the reservoir.

- (d) A provision that ensures that each of the replacement oak trees shall be maintained in healthy condition and shall be protected for the entire natural life span of tree.

Following the approval of the oak tree replacement and mitigation plan by the Chief, Division of Water Rights, Permittee shall fully implement the approved plan. Photo documentation showing the completion of the oak tree replacement and mitigation plan shall be submitted to the Chief, Division of Water Rights, five years after the date of this permit.

(0000210M)

- 16. Within 90 days of the date of this permit, Permittee shall prepare and submit for approval to the Chief, Division of Water Rights an erosion control and implementation plan. This plan shall contain a provision for the protection of parts of the streambed to which the cattle have free access and heavy trampling is observed. Permittee shall also submit evidence that the culvert under the access road to the reservoir was designed and approved by a licensed general engineer contractor.

Following the approval of the erosion control and implementation plan by the Chief, Division of Water Rights, Permittee shall implement the approved plan as needed.

(0000207M)

- 17. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some to the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

**ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE  
SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.  
(0000015)
- B. The amount authorized for appropriation may be reduced in the license if investigation warrants.  
(0000006)
- C. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.  
(0000010)
- D. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.  
(0000011)
- E. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- F. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- G. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

***This permit is issued and permittee takes it subject to the following provisions of the Water Code:***

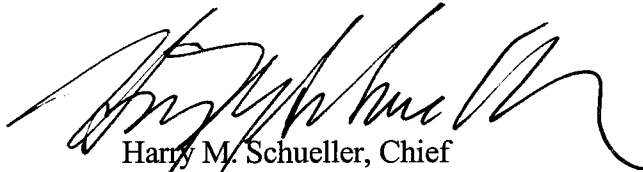
*Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.*

*Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.*

*Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).*

Dated: **JUL 24 2001**

STATE WATER RESOURCES CONTROL BOARD



Harry M. Schueller, Chief  
Division of Water Rights